

Message Text

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ACTION OES-07

INFO OCT-01 ARA-10 ISO-00 ACDA-12 AGRE-00 AID-05
CEA-01 CEQ-01 CG-00 CIAE-00 COME-00 DLOS-09
DODE-00 DOTE-00 EB-08 EPA-01 SOE-02 DOE-15 FMC-01
TRSE-00 H-01 INR-10 INT-05 IO-13 JUSE-00 L-03
NSAE-00 NSF-01 OMB-01 PA-01 PM-05 SP-02 SS-15
NSCE-00 SSO-00 ICAE-00 INRE-00 HA-05 /135 W
-----107922 152318Z /70

O R 152217Z MAY 78
FM AMEMBASSY SAN JOSE
TO SECSTATE WASHDC IMMEDIATE 1091
INFO AMEMBASSY MEXICO

C O N F I D E N T I A L SECTION 1 OF 2 SAN JOSE 2075

E.O. 11652: GDS
TAGS:EFIS, CS
SUBJ: TUNA ISSUE

1. SUMMARY. THE CARAZO ADMINISTRATION'S RESOLVE TO ALTER TUNA ARRANGEMENTS REMAINS FIRM AND EVER PROMINENT IN THE PUBLIC EYE. THE GOCR GIVES EVIDENCE, HOWEVER, THAT IT WILL TRY TO EXERCISE RESTRAINT RE SEIZURES PENDING OUTCOME OF EARLY BILATERAL NEGOTIATIONS. DIFFICULT TO ACHIEVE AS EITHER WOULD BE, EXPEDITIOUS ADOPTION OF SATISFACTORY BASIC MODIFICATIONS TO THE IATTC REGIME, OR SOME INTERIM NEGOTIATED ARRANGEMENT OR UNDERSTANDING, MIGHT PERSUADE AND ENABLE CARAZO ADMINISTRATION TO HOLD OFF ON ENFORCEMENT AND TO SEEK EVENTUAL CHANGES IN DOMESTIC LEGISLATION COVERING FISHING IN 200-MILE PATRIMONIAL WATERS. FAILURE TO ALTER CURRENT ARRANGEMENTS EXPEDITIOUSLY IS LIKELY TO LEAD TO SERIOUS AND EARLY CONFRONTATIONS BASED ON NEW GOCR'S REITERATED COMMITMENT TO ENFORCE EXISTING LEGISLATION. END SUMMARY.

2. AFTER FIRST WEEK IN OFFICE IT REMAINS CLEAR THA THE CARAZO ADMINISTRATION VIEWS THE TUNA PROBLEM AS THE SINGLE MOST IMPORTANT CURRENT BILATERAL ISSUE BETWEEN COSTA RICA AND THE UNITED STATES.
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IN ADDITION TO ATTENTION IN PRESIDENT CARAZO'S MAY 8 INAUGURAL ADDRESS AND HIS MAY 9 LETTER TO PRESIDENT CARTER, CONVERSATIONS WITH FONMIN CALDERON, INTERIOR MINISTER ECHEVERRIA AND OTHER INAUGURAL PERIOD CONTACTS BETWEEN GOCR AND USG OFFICIALS INVARIABLY CENTERED ON THE TUNA PROBLEM. IT WAS THE SUBJECT OF THE FIRST FOREIGN MINISTRY NOTE AFTER THE INAUGURATION, AS WELL AS THE MAIN SUBJECT OF THE FIRST FORMAL DISCUSSION BETWEEN THE FONMIN AND THE

AMBASSADOR. THE QUESTION CONTINUES TO BE COVERED AT LENGTH IN THE NEWSPAPERS, WHICH IS EXCEPTIONAL GIVEN THE LOCAL PRESS'S LIMITED SPAN OF ATTENTION NORMALLY. AT THE REQUEST OF PRESIDENT CARAZO, IATTC DIRECTOR OF INVESTIGATIONS JAMES JOSEPH VISITED SAN JOSE MAY 8-9 TO DISCUSS TUNA AND IATTC WITH THE PRESIDENT AND PRINCIPAL GOCR ADVISORS. FINALLY, PUNTARENAS OFFICIALS CONTINUE TO PURSUE THE ISSUE OF LEGALITY RE RELEASE OF THE BOATS SEIZED APRIL 28.

3. WHERE THE CONTINUING FUROR WILL LEAD THE CARAZO ADMINISTRATION IS UNCLEAR. FOR THE MOMENT, IT APPEARS THAT CARAZO HAS OPTED FOR RESTRAINT RATHER THAN CONFRONTATION, HOPING THAT PROMPT BILATERAL NEGOTIATIONS WITH THE US WILL PROVIDE HIM A PRAGMATIC SOLUTION TO THE ISSUE. CONFIRMATION OF THIS ATTITUDE CAME DURING HIS MAY 8 INAUGURAL ADDRESS WHEN HE ESCHEWED INFLAMMATORY RHETORIC, POINTING OUT THAT GOCR WOULD UNDERTAKE BILATERAL CONVERSATIONS WITH OTHER NATIONS "IN ORDER TO DEFEND OUR RIGHTS, RESPECT THOSE OF OTHER NATIONS, AND SET OUT JUST RULES." SUBSEQUENTLY ON MAY 10, EMBASSY RECEIVED FONMIN RESPONSE TO U.S NOTE OF MAY 5 WHEREIN GOCR

EXPRESSES ITS PLEASURE "THAT THE USG SHARES THE DESIRE OF MY GOVERNMENT TO ENTER INTO NEGOTIATIONS AS SOON AS POSSIBLE", AND SUGGESTING THAT THE CONVERSATIONS BEGIN IN EARLY JUNE. SIMILARLY, FONMIN CALDERON AND MININTERIOR IN SEPARATE CONVERSATIONS WITH ASST SECRETARY TODMAN AND WITH AMBASSADOR, BOTH EXPRESSED HOPE THAT FURTHER INCIDENTS COULD BE AVOIDED, ACCEPTING THAT NEGOTIATIONS WERE THE ONLY WAY TO RESOLVE THE MATTER USEFULLY.
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4. HOWEVER, ON THIS AND OTHER OCCASIONS MININTERIOR ECHEVERRIA HAS STATED CLEARLY TO EMBASSY THAT HE AND CARAZO ADMINISTRATION HAD TAKEN SOLEMN OATH ON MAY 8 TO UPHOLD CONSTITUTION WHICH PROVIDES FOR 200 MILE PATRIMONIAL SEA. IN BRIEFING SESSION ON MAY 10 WITH IATTC DIRECTOR OF INVESTIGATIONS JAMES JOSEPH, PRESIDENT CARAZO WAS DESCRIBED BY JOSEPH AS MODERATE, OPEN-MINDED AND CONVINCED OF THE NEED FOR BILATERAL CONSULTATIONS WITH THE USG, BUT THE MININTERIOR WAS LESS WILLING TO ACCEPT JOSEPH'S POINTS. IN PRESS INTERVIEWS PUBLISHED MAY 12, CARAZO IS QUOTED AS REPEATING THAT COSTA RICA WILL EXACTLY RESPECT FOR 200 MILE LIMIT, NOTING THAT, AT PRESENT TIME, COSTA RICA CANNOT ONLY BECAUSE IT DID NOT YET HAVE SUFFICIENT MEANS FOR ENFORCEMENT.

5. COMPLICATING GOCR FORMULATION OF POLICY IS THE DESIRE TO MAINTAIN PUNTARENAS' CURRENT BENEFITS, LIMITED AS THEY ARE, AND TO FOSTER A BROAD SCALE FISHERIES INDUSTRY WITH ONSHORE SUPPORT FACILITIES THAT WOULD SERVICE FOREIGN AS WELL AS DOMESTIC FLAG VESSELS. MINAG FONSECA AND LOCAL PRIVATE FISHERIES SECTOR ARE PARTICULARLY INTERESTED IN THIS FACET. IN THIS CONTEXT, MINAG HAS MENTIONED POSSIBILITY THAT FISHING PERMITS TO EXEMPT VESSELS FROM THE PRESENT HEAVY FEES, COULD BE ISSUED TO FOREIGN FLAG BOATS THAT PROVISIONED

AND REFUELED IN COSTA RICAN PORTS. EXISTING LAW WOULD NOT PERMIT SUCH ISSUANCE, NOR DOES THE EMBASSY BELIEVE THAT KEY GOCR POLICY-MAKERS WOULD SUPPORT SUCH A CONCEPT. FONSECA'S IDEAS DO, HOWEVER, SUGGEST THE POSSIBILITY THAT HELP IN SOME FORM TO DEVELOPMENT OF THE LOCAL INDUSTRY MIGHT BE A FACTOR IN AN INTERIM OR LONGER-TERM SOLUTION TO THE CURRENT PROBLEM.

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O R 152217Z MAY 78
FM AMEMBASSY SAN JOSE
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INFO AMEMBASSY MEXICO

C O N F I D E N T I A L SECTION 2 OF 2 SAN JOSE 2075

6. THOUGH GOCR ATTITUDES AT THIS MOMENT AUGER WELL FOR AVOIDANCE OF AN IMMEDIATE CONFRONTATION, THESE WILL PROVE SHORTLIVED UNLESS WE CAN FIND SOME QUICK WAY TO BE RESPONSIVE TO THE GOCR AND GENERAL PUBLIC MOOD. LAW 5775 SPELLS OUT QUITE CLEARLY THE ENFORCEMENT DUTIES OF THE EXECUTIVE BRANCH VIS-A -VIS FOREIGN FLAG TUNA VESSELS FISHING IN THE 200 MILE ZONE. THE IATTC IS ACCEPTED AS A CONSERVATION MEASURE, BUT NO ONE IN THE GOCR ANY LONGER IS WILLING TO ACCEPT THAT THE IATTC ISSUES ARE TO LICENSING AND COLLECTION OF FEES. SHOULD THE CARAZO ADMINISTRATION TRY TO AVOID ENFORCEMENT OF LAW 5775, STRONG ADVERSE PUBLIC REACTION IS A NEAR CERTAINTY. POLITICAL OPPOSITION AND THE GENERAL PUBLIC WOULD SEE IN SUCH INACTION A STARTLING CONTRAST WITH THE IMAGE OF PROBITY AND INTEGRITY THAT HELPED TO PROPEL CARAZO INTO THE PRESIDENCY. THUS, LAW 5775 WITH ATTENDANT TRADITIONAL COSTA RICAN SUPPORT FOR THE SANCTITY OF THE LAW, ARE MAJOR CONSTRAINTS ON GOCR FLEXIBILITY IN DEALING WITH THE ISSUE. ANY ENDURING RESOLUTION OF ISSUE, THEREFORE, ENTAILS MODIFICATION

OF LAW 5775.
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7. SUCH MODIFICATION IS OUT OF THE QUESTION UNLESS CARAZO CAN BE CONVINCED IT WILL PRODUCE TANGIBLE BENEFITS FOR COSTA RICA AND THEREAFTER BE ABLE TO MAKE A CONVINCING CASE TO LEGISLATIVE ASSEMBLY AND PUBLIC OPINION THAT A MODIFICATION WOULD BE IN THE NATIONAL INTEREST. SIMPLY STATED, IS THERE A TEMPORARY OR LASTING QUID PRO QUO SUFFICIENTLY ENTICING TO JUSTIFY THE MODIFICATION OF LAW 5775, AND CAN THIS BE FOUND IN TIME? CARAZO AND OTHER GOCR OFFICIALS HAVE INDICATED THEIR DESIRE TO COMMENCE MEANINGFUL NEGOTIATIONS IN EARLY JUNE, WITH THE IMPLICATION THAT RESTRAINT WILL BE USED IN THE INTERIM. SHOULD THERE BE SLIPPAGE IN THIS DATE, OR SHOULD THE GOCR VIEW THE DISCUSSIONS AS MERELY A STALL, THEIR POLICY OF RESTRAINT WILL BECOME EVEN MORE FRAGILE, IF IT SURVIVES AT ALL. ON THE OTHER HAND, IT IS REASONABLE TO BELIEVE THAT IF EARLY CONSULTATIONS GIVE CONCRETE PROMISE OF SUFFICIENT MULTILATERAL OR BILATERAL RELIEF, THE CARAZO ADMINISTRATION COULD CONTINUE TO EXERCISE RESTRAINT AND COMMENCE PREPARATIONS FOR MODIFICATION OF LAW 5775.

8. EMBASSY RECOGNIZES THAT THE MECHANISMS OR A POSSIBLE SOLUTION ARE LIMITED. THE MEXICAN-COSTA RICAN SEPTEMBER 1977 PROPOSAL FOR A NEW TREATY (EVEN IF IT WERE ACCEPTABLE TO ALL PARTIES) WOULD REQUIRE A LENGTHY DRAFTING AND RATIFICATION PROCESS. SIMILARLY, EVEN A REVISION OF THE IATTC CONVENTION WOULD REQUIRE CAREFUL NEGOTIATION AND A PROTRACTED RATIFICATION PERIOD. DR JOSEPH OF IATTC ESTIMATES THAT AN IATTC REVISION WOULD REQUIRE THREE TO FOUR YEARS TO EFFECT. AS AN ALTERNATIVE, EMBASSY SUGGESTS THAT THE DEPARTMENT GIVE ALL POSSIBLE CONSIDERATION TO THE FEASIBILITY OF

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A PROTOCOL TO THE IATTC CONVENTION OR, FAILING THAT, SOME BILATERAL DEVICE, THAT COULD ACCOMMODATE COSTA RICAN DESIRES TO OBTAIN GREATER BENEFITS FROM THE TUNA RESOURCES THAT MIGRATE THROUGH ITS 200 MILE WATERS, WHILE AT THE SAME TIME PRESERVING THE US INTERESTS RE CONSERVATION, THE DOMESTIC INDUSTRY AND THE CONSUMER.

9. ON THE MULTILATERAL FRONT, EMBASSY BELIEVES THAT GOCR, AT A

MINIMUM, WILL PRESS FOR MORE PREFERENTIAL QUOTA ALLOCATIONS AND PERHAPS FOR MULTILATERAL LICENSING AND FISHING PERMITS, WITH PORTION OF CORRESPONDING FEES BEING DISTRIBUTED TO MEMBER STATES ACCORDING TO WHERE TUNA IS CAPTURED. GIVEN SUCH A REGIME, WE BELIEVE THE GOCR WOULD BE INTERESTED IN A MULTI-NATION PACT. AT THE PRESENT TIME, HOWEVER, IT APPEARS THAT GOCR IS MORE TAKEN WITH THE IDEA OF A BILATERAL FISHERIES AGREEMENT ON TUNA, EVEN THOUGH IT MAY HAVE NO CLEAR PERCEPTION OF WHAT SPECIFIC FEATURES SUCH AN AGREEMENT SHOULD CONTAIN. EMBASSY UNDERSTANDING OF FISHERIES ACT OF 1976 IS THAT IT DOES NOT PROVIDE STATUTORY AUTHORITY TO NEGOTIATE BILATERAL COVERING TUNA BUT IS THERE ANY POSSIBILITY OF SOME AD HOC BILATERAL ARRANGEMENT, WITH THE COOPERATION OF THE INDUSTRY AND/OR USG TO TIDE US OVER?

10. THE LIMITED CONVERSATIONS WE HAVE HAD WITH US AND CANADIAN INDUSTRY REPRESENTATIVES SUGGEST SOME FLEXIBILITY (OR AT LEAST NO OUTRIGHT HOSTILITY) TO WORKING OUT SOMETHING WITH COSTA RICA TO KEEP THE LID ON. EMBASSY HAS IMPRESSION, FOR EXAMPLE, THAT AT LEAST PART OF INDUSTRY MIGHT BE WILLING TO COMPLY WITH COSTA RICAN LAW IF THE GOCR WERE TO REVISE ITS FEE STRUCTURE AND MODERNIZE ITS LICENSING PROCEDURES. WHETHER OR NOT THIS IS A POSSIBLE OR PRACTICAL APPROACH TO PROBLEM, EMBASSY WOULD HOPE THAT IN ABSENCE OF SATISFACTORY BILATERAL OR MULTILATERAL AGREEMENT SOME ARRANGEMENT OR UNDERSTANDING MIGHT BE WORKED OUT THAT WOULD BOTH BEGIN TO SATISFY GOCR ASPIRATIONS WHILE PROTECTING FUNDAMENTAL US INTERESTS.

11. EMBASSY HOPES THAT AMBASSADOR NEGROPONTE WILL ARRIVE SAN JOSE PREPARED TO DISCUSS BILATERAL/MULTILATERAL, FORMAL/INFORMAL ALTER-CONFIDENTIAL

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NATIVES IN ORDER TO GUAGE COSTA RICAN RECEPTIVENESS WHICH WOULD THEN HELP SHAPE US NEGOTIATING POSITION.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TUNA, DETENTION, NEGOTIATIONS, INVESTIGATIONS, FISHING GROUNDS, FISHING BOATS
Control Number: n/a
Copy: SINGLE
Draft Date: 15 may 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
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Drafter: n/a
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Executive Order: GS
Errors: N/A
Expiration:
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Secure: OPEN
Status: NATIVE
Subject: TUNA ISSUE
TAGS: EFIS, CS, US, IATTC, (CARAZO, RODRIGO ODIO), (JOSEPH, JAMES)
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/7a7f1c9f-c288-dd11-92da-001cc4696bcc
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